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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,830	02/28/2002	Solomon Flax	082845000000	3585

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EXAMINER

ANDREWS, MELVYN J

ART UNIT PAPER NUMBER

1742

DATE MAILED: 02/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/830,830	Applicant(s) FLAX, SOLOMON	
	Examiner Melvyn J. Andrews	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: A Brief Description of the Drawing is absent.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 to 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The relationship of the claimed process steps to the flow-chart in the drawing is unclear. Claim 3 recites "precipitation of metal" but it is unclear the metal per se is being produced but rather metal sulfates. Applicants should explain where the claimed steps are located in the flow chart.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

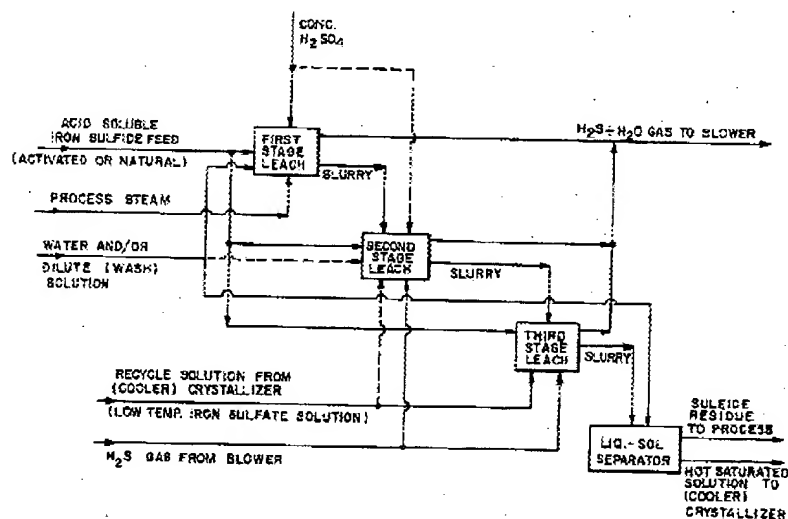
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 5 and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Huggins et al (US 4,003,740). Huggins discloses a process of forming copper sulfate from ore using concentrated sulfuric at a temperature of about 300° to 400°C (col.3, lines 27 to 40) and then dilute sulfuric acid (col.3 lines 53 to 63) the product comprising copper sulfate which is roasted to form sulfur trioxide and a solid product in which the copper component is soluble in water (col.3, lines 41 to 52) but does not explicitly disclose reacting in the presence of oxygen but since oxygen is listed as an evolved gas (col. 4, lines 43 to 47) it would have been obvious to one of ordinary skill in the art at the time the invention is made to expect oxygen to be present during the reaction with concentrated sulfuric acid since no precautions are taken by Huggins et al.

Claims 1 to 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGauley et al (US 3,860,696). McGauley et al discloses a process for the production of high purity iron sulfate from an iron sulfide mineral feed involving leaching as shown in Figure 1



McGauley et al discloses a combined process of selective leaching to extract iron from sulfide mineral feed with sulfuric acid to produce a slurry then diluting and cooling the slurry to form a purified solution of ferrous sulfate (col.20, line 33 to col.21, line 9) and a gaseous product shown as $H_2S + H_2O$ but which may include impurities such as SO_3 since sulfates are being produced which will require the presence of oxygen but does not disclose reacting the sulfide with the sulfuric acid at a temperature of between 300° to $400^\circ C$ but Huggins discloses a process of forming copper sulfate from ore using concentrated sulfuric at a temperature of about 300° to $400^\circ C$ (col.3, lines 27 to 40) it would have been obvious to carry out the McGauley et al First Stage Leach with sulfuric acid at a temperature as disclosed by McGauley et al since leaching sulfides to produce sulfates is the being carried out in all cases.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Zimmer et al (US 4,119,698) and the Australian patent No. 35,116 both disclose processes of reacting ore or residue with sulfuric acid to produce sulfates.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvyn J. Andrews whose telephone number is (571)272-1239. The examiner can normally be reached on 8:00A.M. to 4:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy V King can be reached on (571)272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MELVYN ANDREWS
PRIMARY EXAMINER

mja

February 23, 2004